



**Utah HCBS Draft Transition Plan - Public Comment Summary**  
**Summary of Public Comments from *October 22, 2014 Version One***

A brief summary of public comments and the State's response to the comments follow:

***Comment:***

Two commenters described that the State should maximize opportunities for transparency in the transition process. The commenters described concerns that the plan lacked sufficient detail and that the remediation measures included plans and compliance tools that will not be developed until after the plan has been developed with no opportunity for public input.

***Response:***

The State views the transition planning process as an iterative process in which additional detail regarding remediation activities and compliance tools will be shared with the public as the transition planning process moves forward. The plan was updated to include action items that require the State to share assessment and remediation tools with stakeholders as they are developed. The plan was also updated to require that the State provide quarterly updates to stakeholders as well as to CMS.

***Comment:***

One commenter encouraged the State to hold additional notice and comment periods as more substantive detail is incorporated into the transition plan.

***Response:***

The State believes that providing additional comment periods when changes are made to the plan is a requirement of the federal rule. It is the State's intent to engage in additional notice and comment periods with each iteration of the plan. The State agrees that additional clarity could be added to the plan. The State updated the plan to include an action item that describes the State will hold notice and comment periods for each new iteration of the plan.

***Comment:***

One commenter expressed concern that a preliminary screening would be conducted without onsite reviews, provider self-assessments, or gathering other sources of information. The concern expressed is that the State could potentially determine that large portions of the HCBS service system are compliant without first gathering evidence to support this presumption.

***Response:***

The State understands the concern expressed, but disagrees that the outcome of the preliminary screening will be the determination that large portions of the HCBS system will be determined compliant without evidence. In its preliminary screening, the State took a conservative approach when designating providers as "presumed to be fully compliant". The State only identified services as "presumed to be fully compliant" when the services are not dependent on the setting and when the services are direct services provided to the waiver participant. For example, in the Medicaid Autism Waiver, Applied Behavioral Analysis is a service that is provided directly to the child. The service is provided in the child's home or other naturally occurring setting in the community. Accordingly, this service is presumed to be fully compliant with the HCBS regulations. In addition, providers that offer multiple types of services, were categorized as "requires further review" if the provider had any possibility of providing a service that may not be compliant. For example, if a provider is enrolled to offer Personal Budget Assistance, Respite Care, Behavioral Consultation and

Residential Habilitation, the provider as a whole would be classified as a 'Residential Service Provider' and designated as "requires further review" to ensure all sites will be fully assessed. Within the preliminary report, when services were listed as "presumed to be fully compliant", the State provided a brief narrative to explain the determination. The preliminary report was submitted to the public for a 30-day comment period on February 2, 2015.

**Comment:**

One commenter expressed concerns that the plan did not include a review of the State's standards, rules and regulations.

**Response:**

The State agrees that the plan should include a review of its standards, rules, regulations and provider contracts. An action item will be added to the plan prior to submission of the plan to CMS.

**Comment:**

One commenter expressed concern that the plan did not include an analysis to identify settings that are presumed to have the qualities of an institution.

**Response:**

The plan included an action item describing that the "state would employ multiple processes to evaluate sites that are potentially not yet compliant or not compliant with HCBS characteristics". In response to the comment, the State amended the plan to include language that the processes will include those to determine whether sites are presumed to have institutional-like qualities and that these sites will be identified as requiring heightened scrutiny.

**Comment:**

One commenter described that the State should actively engage HCBS consumers in the Transition Process. The commenter recommended including specific interventions such as completing consumer experience surveys to determine consumers level of understanding of the transition planning process.

**Response:**

While the State understands that the completion of surveys and other educational opportunities represent enhancements to the process, it does not believe these interventions are required elements to be included in a transition plan. The State believes that the plan as currently drafted meets plan requirements. The State will continue to discuss these items with the Transition Planning Workgroup to find opportunities for additional education and consumer involvement. For example, in the first Transition Plan Workgroup meeting, we discussed inclusion of family members and additional consumers from various programs. Current attendees have agreed to submit names of additional consumers to participate in the Workgroup.

**Comment:**

Two commenters suggested that the State should develop assessment and remediation strategies that are specific to residential and non-residential settings.

**Response:**

The State intends to develop assessment and remediation strategies that are specific to residential and non-residential settings. Utah's plan refers to "waiver sites of service". This is inclusive of both residential and non-residential services. The plan was updated to include action items that require the State to share assessment and remediation tools with stakeholders as they are developed.